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**MEMO ENDORSED**

February 6, 2020

**VIA ECF**

Hon. Katherine Polk Failla  
United States District Judge  
United States District Court for the Southern District of New York  
40 Foley Square, Courtroom 618  
New York, NY 10007

**Re: Calcano v. Guess ?, Inc., Civil Action No.: 1:19-cv-10441-KPF**

Dear Judge Failla:

This firm represents Defendant Guess ?, Inc. ("Defendant") in the above-referenced action. We have conferred with Plaintiff's counsel and write, with Plaintiff's concurrence, to jointly request that the Court: (1) an adjourn Initial Pretrial Conference presently scheduled for February 19, 2020 *sine die*, (2) set a briefing schedule for Defendant's forthcoming Motion to Dismiss in the event the Court elects not to hold a pre-motion conference, and (3) stay of discovery pending a decision on the Motion to Dismiss.

By way of background, Defendant's current deadline to respond to the Complaint is February 12, 2020. (ECF No. 9.) The Initial Conference is presently scheduled for February 19, 2020, and the Proposed Civil Case Management Plan and joint letter are due on February 13, 2020. (ECF No. 8.)

Defendant plans to file a pre-motion letter on or before its responsive pleading deadline of February 12, 2020 in connection with a Motion to Dismiss that, if granted, will be fully dispositive of Plaintiff's claims. The parties respectfully request that the Initial Pretrial Conference (and related filings) be adjourned *sine die* in light of Defendant's anticipated motion.

The parties understand that the Court would normally hold a pre-motion conference when a pre-motion letter has been filed. However, given the number of these gift card lawsuits on the Court's docket and the Court's likely familiarity with the issues, the parties request that the Court dispense with the pre-motion conference to conserve resources and enter the proposed briefing schedule set forth below. The schedule takes into account a possible amendment of the Complaint by Plaintiff. If Court elects to hold a pre-motion conference, then the parties are available to appear for that conference on February 19, 2020.

The parties propose the following schedule for briefing and anticipated amendment of the pleadings:

- Defendant's deadline to file its Motion to Dismiss: February 28, 2020
- Plaintiff's deadline to file his Opposition to the Motion to Dismiss or First Amended Complaint (FAC): March 30, 2020
- Defendant's deadline to file its Reply, or to file a Motion to Dismiss FAC (if FAC is filed): April 30, 2020
- Plaintiff's deadline to file his Opposition to Motion to Dismiss FAC (if FAC is filed): May 29, 2020
- Defendant's deadline to file its Reply in support of Motion to Dismiss FAC (if FAC is filed): June 19, 2020

The requested relief will save the Court and the parties the expenditure of potentially unnecessary resources on attending the Initial Pretrial Conference, preparing the pre-conference submissions, and discovery. This is the first request for an adjournment of the Initial Pretrial Conference which, if granted, will not affect any other scheduled dates.

We thank the Court for its time and attention to this matter, and for its consideration of this application.

Respectfully submitted,

SEYFARTH SHAW LLP

*/s/ John W. Egan*

John W. Egan

cc: All counsel of record (via ECF)

Application GRANTED. The initial pretrial conference previously scheduled for February 19, 2020, is hereby ADJOURNED *sine die*. The Court sets the following briefing schedule: Plaintiff hereby has until **March 6, 2020** to amend his complaint; Defendant has until **April 3, 2020** to file a motion to dismiss; Plaintiff has until **May 1, 2020** to file an opposition brief; and Defendant has until **May 15, 2020** to file a reply brief.

Dated: February 7, 2020  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE